IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 26 of 2001

Reserved on: 12.12.2007

Date of decision: 26.12.2007.

Dharam Pal … Petitioner

Versus

State of H.P. and Ors. … Respondents

Coram :

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1] Yes.

For the Petitioner: M/s K.D. Shreedhar & Rajneesh Maniktala, Advocates.

For the respondents: Mr. M.S. Chandel, Advocate General with Mr. R.M. Bisht, Deputy Advocate General, for respondent No. 1.

Per V.K. Ahuja, J.:

The petitioner has challenged the order passed by the State Administrative Tribunal dated 31.7.2000 in O.A. No. 1334/90 filed by the petitioner. The petitioner alleged that he was appointed as District Co-operative & Supplies Officer in the Co-operative Department which post was re-designated as Assistant Registrar, Co-operative Societies. The petitioner alleged that the post of Deputy Registrar was to be filled by promotion from amongst the Assistant Registrars and the petitioner alleged that he was eligible for the post of Deputy Registrar. He also claimed that he belongs to schedule caste category

[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes.

and his promotion was to be considered against the point reserved for schedule caste category in the roster. On the basis of the recommendations of the Departmental Promotion Committee which met in March, 1983, one Shri L.C. Kapoor and Shri G.C. Vaidya were promoted to the post of Deputy Registrars and the petitioner alleged that these promotions had been made against points 13 and 14 of the roster, though point No. 14 was reserved for schedule caste category to which the petitioner belongs and should have been promoted against this point. He challenged the appointment of respondent No. 2 G.C. Vaidya against this point. On his representation he was informed that no post of Deputy Registrar reserved for schedule caste candidate has been filed and being aggrieved, the petitioner filed Original Application before the State Administrative Tribunal after his representation was rejected against his reversion.

Learned Tribunal in its impugned order had observed that in 1983 his case was not within the zone of consideration since one post reserved for scheduled caste was already occupied by Shri D.R. Sakia belonging to schedule caste category. It was also observed that his grievance that he was not considered against reserved point is not correct. The minutes of the Departmental Promotion Committee meeting had been perused by learned Tribunal which observed that the name of the petitioner was considered by the Committee but he was not appointed in view of the vigilance case against him and they also terminated the ad hoc promotion of petitioner to the post of Deputy Registrar since the post was to be filled up on regular basis by promoting an official duly recommended by the Departmental Promotion Committee. The learned Tribunal had observed that the grievance of the petitioner was incorrect that he was not considered against the

reserved post. The Tribunal, however, did not make a reference to the roster maintained in regard to the promotion.

To satisfy ourselves, we have called for the Roster Register and we found that for the first time the Roster Register was started in the year 1974. The first post fell to the share of scheduled caste but since no scheduled caste candidate was available, Shri V.C.Sehgal was appointed. Thereafter Shri R.K. Bhatwa belonging to the scheduled caste category was appointed on 26.12.1979 against the post at serial No.1. Point at serial No.4 fell to the category of scheduled tribes but no candidate was available when this point fell vacant in 1980. Thereafter Shri D.R. Shakiya belonging to the scheduled caste category was promoted against the post meant for scheduled tribe on 12.12.1980. The next post belonging to the scheduled caste at point No.14 fell vacant in 1989 and a D.P.C. was constituted on 24.11.1989. It is noted in the Roster Register that the reserved point has been treated to be un-reserved as prescribed percentage for scheduled caste and scheduled tribes has already been achieved. Thus, the petitioner could not have been considered against the scheduled caste vacancy at that stage and he was finally appointed when then next post of scheduled caste fell due on 27.9.1991. This has been done strictly in accordance with law.

Therefore, from which ever angle the case of the petitioner is looked into considering the roster point, there was no post of schedule caste category available at that time when the promotions were made by the Departmental Promotion Committee since the post was already occupied by one another person belonging to the schedule caste category and the learned Tribunal had considered the case of the petitioner in accordance with law and no infirmity can be found with the said order passed by the Tribunal dismissing the Original

Application filed by the petitioner. Thus, there is no merit in the writ petition filed by the petitioner, which is dismissed accordingly. No order as to costs.

(Deepak Gupta),
Judge.

(V.K. Ahuja),
Judge

December 26, 2007
(BSS)